



## CONNECTICUT INNOCENCE PROJECT

State of Connecticut  
DIVISION OF PUBLIC DEFENDER SERVICES

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### TESTIMONY OF KAREN A. GOODROW, DIRECTOR, CONNECTICUT INNOCENCE PROJECT

**Raised Bill No. 6705**  
*An Act Concerning the Efficient Administration of Justice*

**Judiciary Committee Public Hearing**  
**March 26, 2009**

My name is Karen Goodrow and I am the Director of the Connecticut Innocence Project, which is a part of the Division of Public Defender Services. **We oppose Raised Bill No. 6705, An Act Concerning the Efficient Administration of Justice**, which would severely inhibit, and in some cases, *entirely prohibit*, innocent individuals and those wrongfully convicted from obtaining justice. Moreover, the proposed legislation potentially discriminates against individuals who are non-English speaking or those who suffer from mental illnesses.

Although the bill's stated purpose is "to provide for the more efficient administration of justice and to protect the rights of victims of crime", the effect of this proposed legislation would be to restrict access to the courts by innocent and wrongfully convicted individuals. Additionally, for those individuals who have been convicted of crimes for which they are innocent, the restrictions on court access imposed by this proposed legislation serves a further injustice to the victims of those crimes and to society at large. Failure to allow innocent people to establish their innocence through the habeas process necessarily prevents the true culprits of crime from being identified and apprehended, and enables the true culprits to continue to commit crimes while the innocent are languishing in prison.

Certain inmates who are innocent of the crimes for which they have been convicted, or who were wrongfully convicted, will not have access to a remedy in habeas court under this proposed legislation. The bill potentially imposes upon innocent inmates, and those who are wrongfully convicted, the ultimate burden of proving that "good cause" exists for the failures of their attorneys to raise certain defenses and legal issues in prior proceedings. Additionally, the proposed legislation provides that in some cases, such an inmate may be denied the right to counsel. Therefore, in certain situations, pro se inmates (those representing themselves) who have been wrongfully convicted or who are innocent of the crimes for which they have been

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convicted, may be barred access to the habeas court if they are unable to establish that "good cause" exists for the short-comings of their attorney. To place such an extreme burden on an innocent inmate, or on an inmate who was convicted unlawfully, is unfair and unconstitutional.

Additionally, the proposed legislation imposes a statute of limitations for the filing of a habeas petition--either three years from the date of sentencing/commitment or one year from the date of the final appellate decision related to the direct appeal. The proposed statute of limitations will have the effect of prohibiting certain innocent and wrongfully convicted individuals from access to a remedy for their wrongful convictions. Although the proposed legislation attempts to carve out an exception to the statute of limitations for cases of innocence, the language of the bill imposes an almost insurmountable burden on such an innocent inmate. In effect, an innocent inmate would be barred from access to habeas relief unless the inmate could establish **all of the following**: (1) newly discovered evidence exists which could not have previously been discovered by the inmate or by his attorney; (2) the newly discovered evidence does not relate to impeachment of witnesses; (3) the newly discovered evidence is not cumulative; (4) the inmate exercised "due diligence" in pursuing his claim of innocence (in spite of the fact that the filing of the habeas was beyond the proposed statute of limitations); and (5) the inmate establishes by "clear and convincing evidence" that he is innocent.

Additionally, under certain circumstances, this proposed legislation would prevent an innocent inmate who did not timely file his petition from obtaining relief for his injustice unless the inmate was unable to **prove on his own, without the aid of an attorney**, each of the legal factors outlined above. Moreover, this proposed legislation has an increased detrimental effect upon inmates who are unable to file their habeas petitions in a timely fashion due to the fact that they are non-English speaking, or because they suffer from a mental illness which is not consistent with the court's definition or interpretation of "physical disability" or "mental disease" as described in the proposed legislation.

Recently, the citizens of the State of Connecticut have become increasingly aware of the fact that even in Connecticut, innocent people are convicted of crimes which they did not commit, and often serve lengthy prison sentences before their wrongful convictions are proven and their injustices are remedied. Although Raised Bill No. 6705 seeks the noble effort of making more efficient our justice system, and protecting the rights of victims, its effect is just the opposite. I strongly urge this Committee to reject the proposed legislation because it will inevitably prevent certain innocent and wrongfully convicted individuals from obtaining justice; notably, those most at risk are the non-English speaking and mentally ill populations.